

16 C.J.S. Constitutional Law § 10

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Constitutional Law

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PART I. Nature, Establishment, Amendment, and Construction of Constitutions; Separation of Powers

I. Definitions; Nature and Authority of Constitutions

B. Nature and Authority of Constitutions

2. Particular Constitutions

a. Federal Constitution

§ 10. United States Constitution; effect on state law and enforcement

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Constitutional Law](#)  500, 502

The United States Constitution is binding on, and enforceable by, both federal and state officials. It is the dominant authority in the interpretation and enforcement of provisions of a state constitution which may be affected by federal organic provisions.

The United States Constitution is a compact established by the people of the United States and not by the states in their sovereign capacity.¹

In protecting the rights of the people, the Federal Constitution is binding on states and establishes a minimum standard.² Thus, judges, legislators, and executives, both federal and state, are bound by oath to enforce the Federal Constitution.³ The obligation to guard and enforce every right secured by the Federal Constitution rests, therefore, on state courts equally with federal courts.⁴

Within their proper sphere of operation, the provisions of the Federal Constitution are the dominant authority in the interpretation and enforcement of provisions of a state constitution, which may be affected by federal organic provisions.⁵

CUMULATIVE SUPPLEMENT

Cases:

If it becomes apparent that the Supreme Court's Commerce Clause decisions prohibit the States from exercising their lawful sovereign powers in the federal system, the Court should be vigilant in correcting the error. [U.S.C.A. Const. Art. 1, § 8, cl. 3. *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 \(2018\).](#)

[END OF SUPPLEMENT]

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Footnotes

- 1 Me.—[In re Opinion of the Justices](#), 118 Me. 544, 107 A. 673, 5 A.L.R. 1412 (1919).
- 2 Ga.—[Pope v. City of Atlanta](#), 240 Ga. 177, 240 S.E.2d 241 (1977).
- 3 U.S.—[Ex parte White](#), 66 F. Supp. 982 (Terr. Haw. 1944).
As to the oath of judges to support the Federal Constitution, generally, see [C.J.S., Judges § 48](#).
As to the oath of state officers, generally, see [C.J.S., States § 149](#).
As to the oath of members of Congress, generally, see [C.J.S., United States § 16](#).
- 4 U.S.—[Smith v. O'Grady](#), 312 U.S. 329, 61 S. Ct. 572, 85 L. Ed. 859 (1941).
Ind.—[Dixon v. State](#), 224 Ind. 327, 67 N.E.2d 138 (1946).
Binding on state court
Ga.—[Britt v. Smith](#), 274 Ga. 611, 556 S.E.2d 435 (2001) (overruled on other grounds by, [Lejeune v. McLaughlin](#), 296 Ga. 291, 766 S.E.2d 803 (2014)).
- 5 Fla.—[Gray v. Winthrop](#), 115 Fla. 721, 156 So. 270, 94 A.L.R. 804 (1934).